

111TH CONGRESS
1ST SESSION

S. 1793

AN ACT

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Ryan White HIV/AIDS Treatment Extension Act of
 4 2009”.

5 (b) **REFERENCES.**—Except as otherwise specified,
 6 whenever in this Act an amendment is expressed in terms
 7 of an amendment to a section or other provision, the ref-
 8 erence shall be considered to be made to a section or other
 9 provision of the Public Health Service Act (42 U.S.C. 201
 10 et seq.).

11 **SEC. 2. REAUTHORIZATION OF HIV HEALTH CARE SERV-**
 12 **ICES PROGRAM.**

13 (a) **ELIMINATION OF SUNSET PROVISION.**—

14 (1) **IN GENERAL.**—The Ryan White HIV/AIDS
 15 Treatment Modernization Act of 2006 (Public Law
 16 109–415; 120 Stat. 2767) is amended by striking
 17 section 703.

18 (2) **EFFECTIVE DATE.**—Paragraph (1) shall
 19 take effect as if enacted on September 30, 2009.

20 (3) **CONTINGENCY PROVISIONS.**—Notwith-
 21 standing section 703 of the Ryan White HIV/AIDS
 22 Treatment Modernization Act of 2006 (Public Law
 23 109–415; 120 Stat. 2767) and section 139 of the
 24 Continuing Appropriations Resolution, 2010—

25 (A) the provisions of title XXVI of the
 26 Public Health Service Act (42 U.S.C. 300ff et

1 seq.), as in effect on September 30, 2009, are
2 hereby revived; and

3 (B) the amendments made by this Act to
4 title XXVI of the Public Health Service Act (42
5 U.S.C. 300ff et seq.) shall apply to such title as
6 so revived and shall take effect as if enacted on
7 September 30, 2009.

8 (b) PART A GRANTS.—Section 2610(a) (42 U.S.C.
9 300ff–20(a)) is amended by striking “and \$649,500,000
10 for fiscal year 2009” and inserting “\$649,500,000 for fis-
11 cal year 2009, \$681,975,000 for fiscal year 2010,
12 \$716,074,000 for fiscal year 2011, \$751,877,000 for fis-
13 cal year 2012, and \$789,471,000 for fiscal year 2013”.

14 (c) PART B GRANTS.—Section 2623(a) (42 U.S.C.
15 300ff–32(a)) is amended by striking “and \$1,285,200,000
16 for fiscal year 2009” and inserting “\$1,285,200,000 for
17 fiscal year 2009, \$1,349,460,000 for fiscal year 2010,
18 \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for
19 fiscal year 2012, and \$1,562,169,000 for fiscal year
20 2013”.

21 (d) PART C GRANTS.—Section 2655 (42 U.S.C.
22 300ff–55) is amended by striking “and \$235,100,000 for
23 fiscal year 2009” and inserting “\$235,100,000 for fiscal
24 year 2009, \$246,855,000 for fiscal year 2010,

1 \$259,198,000 for fiscal year 2011, \$272,158,000 for fis-
 2 cal year 2012, and \$285,766,000 for fiscal year 2013”.

3 (e) PART D GRANTS.—Section 2671(i) (42 U.S.C.
 4 300ff–71(i)) is amended by inserting before the period at
 5 the end “, \$75,390,000 for fiscal year 2010, \$79,160,000
 6 for fiscal year 2011, \$83,117,000 for fiscal year 2012, and
 7 \$87,273,000 for fiscal year 2013”.

8 (f) DEMONSTRATION AND TRAINING GRANTS UNDER
 9 PART F.—

10 (1) HIV/AIDS COMMUNITIES, SCHOOLS, AND
 11 CENTERS.—Section 2692(c) (42 U.S.C. 300ff–
 12 111(c)) is amended—

13 (A) in paragraph (1)—

14 (i) by striking “is authorized” and in-
 15 serting “are authorized”; and

16 (ii) by inserting before the period at
 17 the end “, \$36,535,000 for fiscal year
 18 2010, \$38,257,000 for fiscal year 2011,
 19 \$40,170,000 for fiscal year 2012, and
 20 \$42,178,000 for fiscal year 2013” ; and

21 (B) in paragraph (2)—

22 (i) by striking “is authorized” and in-
 23 serting “are authorized”; and

24 (ii) by inserting before the period at
 25 the end “, \$13,650,000 for fiscal year

1 2010, \$14,333,000 for fiscal year 2011,
 2 \$15,049,000 for fiscal year 2012, and
 3 \$15,802,000 for fiscal year 2013”.

4 (2) MINORITY AIDS INITIATIVE.—Section 2693
 5 (42 U.S.C. 300ff–121) is amended—

6 (A) in subsection (a), by striking “and
 7 \$139,100,000 for fiscal year 2009.” and insert-
 8 ing “\$139,100,000 for fiscal year 2009,
 9 \$146,055,000 for fiscal year 2010,
 10 \$153,358,000 for fiscal year 2011,
 11 \$161,026,000 for fiscal year 2012, and
 12 \$169,077,000 for fiscal year 2013. The Sec-
 13 retary shall develop a formula for the awarding
 14 of grants under subsections (b)(1)(A) and
 15 (b)(1)(B) that ensures that funding is provided
 16 based on the distribution of populations dis-
 17 proportionately impacted by HIV/AIDS.”;

18 (B) in subsection (b)(2)—

19 (i) in subparagraph (A)—

20 (I) in the matter preceding clause

21 (i), by striking “competitive,”; and

22 (II) by adding at the end the fol-
 23 lowing:

24 “(iv) For fiscal year 2010,
 25 \$46,738,000.

1 “(v) For fiscal year 2011,
2 \$49,075,000.

3 “(vi) For fiscal year 2012,
4 \$51,528,000.

5 “(vii) For fiscal year 2013,
6 \$54,105,000.”;

7 (ii) in subparagraph (B)—

8 (I) in the matter preceding clause
9 (i), by striking “competitive”; and

10 (II) by adding at the end the fol-
11 lowing:

12 “(iv) For fiscal year 2010,
13 \$8,763,000.

14 “(v) For fiscal year 2011, \$9,202,000.

15 “(vi) For fiscal year 2012,
16 \$9,662,000.

17 “(vii) For fiscal year 2013,
18 \$10,145,000.”;

19 (iii) in subparagraph (C), by adding
20 at the end the following:

21 “(iv) For fiscal year 2010,
22 \$61,343,000.

23 “(v) For fiscal year 2011,
24 \$64,410,000.

1 “(vi) For fiscal year 2012,
2 \$67,631,000.

3 “(vii) For fiscal year 2013,
4 \$71,012,000.”;

5 (iv) in subparagraph (D), by striking
6 “\$18,500,000” and all that follows
7 through the period and inserting the fol-
8 lowing: “the following, as applicable:

9 “(i) For fiscal year 2010,
10 \$20,448,000.

11 “(ii) For fiscal year 2011,
12 \$21,470,000.

13 “(iii) For fiscal year 2012,
14 \$22,543,000.

15 “(iv) For fiscal year 2013,
16 \$23,671,000.”; and

17 (v) in subparagraph (E), by striking
18 “\$8,500,000” and all that follows through
19 the period and inserting the following: “the
20 following, as applicable:

21 “(i) For fiscal year 2010, \$8,763,000.

22 “(ii) For fiscal year 2011,
23 \$9,201,000.

24 “(iii) For fiscal year 2012,
25 \$9,662,000.

1 “(iv) For fiscal year 2013,
2 \$10,144,000.”; and

3 (C) by adding at the end the following:

4 “(d) SYNCHRONIZATION OF MINORITY AIDS INITIA-
5 TIVE.—For fiscal year 2010 and each subsequent fiscal
6 year, the Secretary shall incorporate and synchronize the
7 schedule of application submissions and funding avail-
8 ability under this section with the schedule of application
9 submissions and funding availability under the cor-
10 responding provisions of this title XXVI as follows:

11 “(1) The schedule for carrying out subsection
12 (b)(1)(A) shall be the same as the schedule applica-
13 ble to emergency assistance under part A.

14 “(2) The schedule for carrying out subsection
15 (b)(1)(B) shall be the same as the schedule applica-
16 ble to care grants under part B.

17 “(3) The schedule for carrying out subsection
18 (b)(1)(C) shall be the same as the schedule applica-
19 ble to grants for early intervention services under
20 part C.

21 “(4) The schedule for carrying out subsection
22 (b)(1)(D) shall be the same as the schedule applica-
23 ble to grants for services through projects for HIV-
24 related care under part D.

1 “(5) The schedule for carrying out subsection
 2 (b)(1)(E) shall be the same as the schedule applica-
 3 ble to grants and contracts for activities through
 4 education and training centers under section 2692.”.

5 (3) HHS REPORT.—Not later than 6 months
 6 after the publication of the Government Account-
 7 ability Office Report on the Minority Aids Initiative
 8 described in section 2686, the Secretary of Health
 9 and Human Services shall submit to the appropriate
 10 committees of Congress a Departmental plan for
 11 using funding under section 2693 of the Public
 12 Health Service Act (42 U.S.C. 300ff–93) in all rel-
 13 evant agencies to build capacity, taking into consid-
 14 eration the best practices included in such Report.

15 (g) GAO REPORT.—Section 2686 (42 U.S.C. 300ff–
 16 86) is amended to read as follows:

17 **“SEC. 2686. GAO REPORT.**

18 “‘The Comptroller General of the Government Ac-
 19 countability Office shall, not less than 1 year after the
 20 date of enactment of the Ryan White HIV/AIDS Treat-
 21 ment Extension Act of 2009, submit to the appropriate
 22 committees of Congress a report describing Minority
 23 AIDS Initiative activities across the Department of Health
 24 and Human Services, including programs under this title
 25 and programs at the Centers for Disease Control and Pre-

vention, the Substance Abuse and Mental Health Services Administration, and other departmental agencies. Such report shall include a history of program activities within each relevant agency and a description of activities conducted, people served and types of grantees funded, and shall collect and describe best practices in community outreach and capacity-building of community based organizations serving the communities that are disproportionately affected by HIV/AIDS.”.

SEC. 3. EXTENDED EXEMPTION PERIOD FOR NAMES-BASED REPORTING.

(a) PART A GRANTS.—Section 2603(a)(3) (42 U.S.C. 300ff–13(a)(3)) is amended—

(1) in subparagraph (C)—

(A) in clause (ii)—

(i) in the matter preceding subclause (I), by striking “2009” and inserting “2012”; and

(ii) in subclause (II), by striking “or 2009” and inserting “or a subsequent fiscal year through fiscal year 2012”;

(B) in clause (iv), by striking “2010” and inserting “2012”;

(C) in clause (v), by inserting “or a subsequent fiscal year” after “2009”;

(D) in clause (vi)(II), by inserting after “5 percent” the following: “for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012)”;

(E) in clause (ix)(II)—

(i) by striking “2010” and inserting “2013”; and

(ii) by striking “2009” and inserting “2012”; and

(F) by adding at the end the following:

“(xi) FUTURE FISCAL YEARS.—For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the area involved.”; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking “2009” and inserting “2012”; and

(ii) in subclause (II), by striking “and 2009” and inserting “through 2012”; and

(B) in clause (ii), by striking “2009” and inserting “2012”.

1 (b) PART B GRANTS.—Section 2618(a)(2) (42
2 U.S.C. 300ff–28(a)(2)) is amended—

3 (1) in subparagraph (D)—

4 (A) in clause (ii)—

5 (i) in the matter preceding subclause
6 (I), by striking “2009” and inserting
7 “2012”; and

8 (ii) in subclause (II), by striking “or
9 2009” and inserting “or a subsequent fis-
10 cal year through fiscal year 2012”;

11 (B) in clause (iv), by striking “2010” and
12 inserting “2012”;

13 (C) in clause (v), by inserting “or a subse-
14 quent fiscal year” after “2009”;

15 (D) in clause (vi)(II), by inserting after “5
16 percent” the following: “for fiscal years before
17 fiscal year 2012 (and 6 percent for fiscal year
18 2012)”;

19 (E) in clause (viii)(II)—

20 (i) by striking “2010” and inserting
21 “2013”; and

22 (ii) by striking “2009” and inserting
23 “2012”; and

24 (F) by adding at the end the following:

1 “(x) FUTURE FISCAL YEARS.—For
 2 fiscal years beginning with fiscal year
 3 2013, determinations under this paragraph
 4 shall be based only on living names-based
 5 cases of HIV/AIDS with respect to the
 6 State involved.”; and

7 (2) in subparagraph (E), by striking “2009”
 8 each place it appears and inserting “2012”.

9 **SEC. 4. EXTENSION OF TRANSITIONAL GRANT AREA STA-**
 10 **TUS.**

11 (a) ELIGIBILITY.—Section 2609 (42 U.S.C. 300ff–
 12 19) is amended—

13 (1) in subsection (c)(1)—

14 (A) in the heading, by striking “2007” and
 15 inserting “2011”; and

16 (B) by striking “2007” each place it ap-
 17 pears and inserting “2011”; and

18 (C) by striking “2006” and inserting
 19 “2010”;

20 (2) in subsection (c)(2)—

21 (A) in subparagraph (A)(ii), by striking
 22 “to have a” and inserting “subject to subpara-
 23 graphs (B) and (C), to have a”;

24 (B) by redesignating subparagraph (B) as
 25 subparagraph (C);

1 (C) by inserting after subparagraph (A)
 2 the following:

3 “(B) PERMITTING MARGIN OF ERROR AP-
 4 PLICABLE TO CERTAIN METROPOLITAN
 5 AREAS.—In applying subparagraph (A)(ii) for a
 6 fiscal year after fiscal year 2008, in the case of
 7 a metropolitan area that has a cumulative total
 8 of at least 1,400 (and fewer than 1,500) living
 9 cases of AIDS as of December 31 of the most
 10 recent calendar year for which such data is
 11 available, such area shall be treated as having
 12 met the criteria of such subparagraph if not
 13 more than 5 percent of the total from grants
 14 awarded to such area under this part is unobli-
 15 gated as of the end of the most recent fiscal
 16 year for which such data is available.”; and

17 (D) in subparagraph (C), as so redesign-
 18 nated, by striking “Subparagraph (A) does not
 19 apply” and inserting “Subparagraphs (A) and
 20 (B) do not apply”; and

21 (3) in subsection (d)(1)(B), strike “2009” and
 22 insert “2013”.

23 (b) TRANSFER OF AMOUNTS DUE TO CHANGE IN
 24 STATUS AS TRANSITIONAL AREA.—Subparagraph (B) of

1 section 2610(c)(2) (42 U.S.C. 300ff-20(c)(2)) is amend-
2 ed—

3 (1) by striking “(B)” and inserting “(B)(i) sub-
4 ject to clause (ii),”;

5 (2) by striking the period at the end and insert-
6 ing “; and”; and

7 (3) by adding at the end the following:

8 “(ii) for each of fiscal years 2010 through
9 2013, notwithstanding subsection (a)—

10 “(I) there shall be transferred to the
11 State containing the metropolitan area, for
12 purposes described in section 2612(a), an
13 amount (which shall not be taken into ac-
14 count in applying section 2618(a)(2)(H))
15 equal to—

16 “(aa) for the first fiscal year of
17 the metropolitan area not being a
18 transitional area, 75 percent of the
19 amount described in subparagraph
20 (A)(i) for such area;

21 “(bb) for the second fiscal year
22 of the metropolitan area not being a
23 transitional area, 50 percent of such
24 amount; and

1 “(cc) for the third fiscal year of
 2 the metropolitan area not being a
 3 transitional area, 25 percent of such
 4 amount; and

5 “(II) there shall be transferred and
 6 made available for grants pursuant to sec-
 7 tion 2618(a)(1) for the fiscal year, in addi-
 8 tion to amounts available for such grants
 9 under section 2623, an amount equal to
 10 the total amount of the reduction for such
 11 fiscal year under subparagraph (A), less
 12 the amount transferred for such fiscal year
 13 under subclause (I).”.

14 **SEC. 5. HOLD HARMLESS.**

15 (a) PART A GRANTS.—Section 2603(a)(4) (42
 16 U.S.C. 300ff–13(a)(4)) is amended—

17 (1) in the matter preceding clause (i) in sub-
 18 paragraph (A)—

19 (A) by striking “2006” and inserting
 20 “2009”; and

21 (B) by striking “2007 through 2009” and
 22 inserting “2010 through 2013”;

23 (2) by striking clauses (i) and (ii) in subpara-
 24 graph (A) and inserting the following:

“(i) For fiscal year 2010, an amount equal to 95 percent of the sum of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2009.

“(ii) For each of the fiscal years 2011 and 2012, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2010.

“(iii) For fiscal year 2013, an amount equal to 92.5 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2012.”; and

(3) in subparagraph (C), by striking “2009” and inserting “2013”.

(b) PART B GRANTS.—Section 2618(a)(2)(H) (42 U.S.C. 300ff-28(a)(2)(H)) is amended—

(1) in clause (i)(I)—

(A) by striking “2007” and inserting “2010”; and

(B) by striking “2006” and inserting “2009”;

(2) by striking clause (ii) and redesignating clause (iii) as clause (ii);

1 (3) in clause (ii), as so redesignated—

2 (A) in the heading, by striking “2008 AND
3 2009” and inserting “2011 AND 2012”;

4 (B) by striking “2008 and 2009” and in-
5 serting “2011 and 2012”; and

6 (C) by striking “2007” and inserting
7 “2010”;

8 (4) by inserting after clause (ii), as so redesign-
9 ated, the following new clause:

10 “(iii) FISCAL YEAR 2013.—For fiscal
11 year 2013, the Secretary shall ensure that
12 the total for a State of the grant pursuant
13 to paragraph (1) and the grant pursuant
14 to subparagraph (F) is not less than 92.5
15 percent of such total for the State for fis-
16 cal year 2012.”; and

17 (5) in clause (v), by striking “2009” and insert-
18 ing “2013”.

19 (c) TECHNICAL CORRECTIONS.—Title XXVI (42
20 U.S.C. 300ff–11 et seq.) is amended—

21 (1) in subparagraphs (A)(i) and (H) of section
22 2618(a)(2), by striking the term “subparagraph
23 (G)” each place it appears and inserting “subpara-
24 graph (F)”;

(2) in sections 2620(a)(2), 2622(c)(1), and 2622(c)(4)(A), by striking “2618(a)(2)(G)(i)” and inserting “2618(a)(2)(F)(i)”;

(3) in sections 2622(a) and 2623(b)(2)(A), by striking “2618(a)(2)(G)” and inserting “2618(a)(2)(F)”; and

(4) in section 2622(b), by striking “2618(a)(2)(G)(ii)” and inserting “2618(a)(2)(F)(ii)”.

SEC. 6. AMENDMENTS TO THE GENERAL GRANT PROVISIONS.

(a) ADMINISTRATION AND PLANNING COUNCIL.—
Section 2602(b)(4) (42 U.S.C. 300ff–12(b)(4)) is amended—

(1) in subparagraph (A), by inserting “, as well as the size and demographics of the estimated population of individuals with HIV/AIDS who are unaware of their HIV status” after “HIV/AIDS”;

(2) in subparagraph (B)—

(A) in clause (i), by striking “and” at the end after the semicolon;

(B) in clause (ii), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

1 “(iii) individuals with HIV/AIDS who
 2 do not know their HIV status;”; and

3 (3) in subparagraph (D)—

4 (A) in clause (ii), by striking “and” at the
 5 end after the semicolon;

6 (B) in clause (iii), by inserting “and” after
 7 the semicolon; and

8 (C) by adding at the end the following:

9 “(iv) includes a strategy, coordinated
 10 as appropriate with other community strat-
 11 egies and efforts, including discrete goals,
 12 a timetable, and appropriate funding, for
 13 identifying individuals with HIV/AIDS who
 14 do not know their HIV status, making
 15 such individuals aware of such status, and
 16 enabling such individuals to use the health
 17 and support services described in section
 18 2604, with particular attention to reducing
 19 barriers to routine testing and disparities
 20 in access and services among affected sub-
 21 populations and historically underserved
 22 communities;”.

23 (b) TYPE AND DISTRIBUTION OF GRANTS.—Section
 24 2603(b) (42 U.S.C. 300ff–13(b)) is amended—

25 (1) in paragraph (1)—

1 (A) in subparagraph (G), by striking
2 “and” at the end after the semicolon;

3 (B) in subparagraph (H), by striking the
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(I) demonstrates success in identifying in-
7 dividuals with HIV/AIDS as described in
8 clauses (i) through (iii) of paragraph (2)(A).”;
9 and

10 (2) in paragraph (2)(A), by striking the period
11 and inserting: “, and demonstrated success in identi-
12 fying individuals with HIV/AIDS who do not know
13 their HIV status and making them aware of such
14 status counting one-third. In making such deter-
15 mination, the Secretary shall consider—

16 “(i) the number of individuals who
17 have been tested for HIV/AIDS;

18 “(ii) of those individuals described in
19 clause (i), the number of individuals who
20 tested for HIV/AIDS who are made aware
21 of their status, including the number who
22 test positive; and

23 “(iii) of those individuals described in
24 clause (ii), the number who have been re-
25 ferred to appropriate treatment and care.”.

1 (c) APPLICATION.—Section 2605(b)(1) (42 U.S.C.
 2 300ff–15(b)(1)) is amended by inserting “, including the
 3 identification of individuals with HIV/AIDS as described
 4 in clauses (i) through (iii) of section 2603(b)(2)(A)” be-
 5 fore the semicolon at the end.

6 **SEC. 7. INCREASE IN ADJUSTMENT FOR NAMES-BASED RE-**
 7 **PORTING.**

8 (a) PART A GRANTS.—

9 (1) FORMULA GRANTS.—Section
 10 2603(a)(3)(C)(vi) (42 U.S.C. 300ff–13(a)(3)(C)(vi))
 11 is amended by adding at the end the following:

12 “(III) INCREASED ADJUSTMENT
 13 FOR CERTAIN AREAS PREVIOUSLY
 14 USING CODE-BASED REPORTING.—For
 15 purposes of this subparagraph for
 16 each of fiscal years 2010 through
 17 2012, the Secretary shall deem the
 18 applicable number of living cases of
 19 HIV/AIDS in an area that were re-
 20 ported to and confirmed by the Cen-
 21 ters for Disease Control and Preven-
 22 tion to be 3 percent higher than the
 23 actual number if—

1 “(aa) for fiscal year 2007,
2 such area was a transitional
3 area;

4 “(bb) fiscal year 2007 was
5 the first year in which the count
6 of living non-AIDS cases of HIV
7 in such area, for purposes of this
8 section, was based on a names-
9 based reporting system; and

10 “(cc) the amount of funding
11 that such area received under
12 this part for fiscal year 2007 was
13 less than 70 percent of the
14 amount of funding (exclusive of
15 funds that were identified as
16 being for purposes of the Minor-
17 ity AIDS Initiative) that such
18 area received under such part for
19 fiscal year 2006.”.

20 (2) SUPPLEMENTAL GRANTS.—Section
21 2603(b)(2) (42 U.S.C. 300ff–13(b)(2)) is amended
22 by adding at the end the following:

23 “(D) INCREASED ADJUSTMENT FOR CER-
24 TAIN AREAS PREVIOUSLY USING CODE-BASED
25 REPORTING.—For purposes of this subsection

for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if the conditions described in items (aa) through (cc) of subsection (a)(3)(C)(vi)(III) are all satisfied.”.

(b) PART B GRANTS.—Section 2618(a)(2)(D)(vi) (42 U.S.C. 300ff–28(a)(2)(D)(vi)) is amended by adding at the end the following:

“(III) INCREASED ADJUSTMENT FOR CERTAIN STATES PREVIOUSLY USING CODE-BASED REPORTING.—For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in a State that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

“(aa) there is an area in such State that satisfies all of

the conditions described in items
(aa) through (cc) of section
2603(a)(3)(C)(vi)(III); or

“(bb)(AA) fiscal year 2007
was the first year in which the
count of living non-AIDS cases of
HIV in such area, for purposes
of this part, was based on a
names-based reporting system;
and

“(BB) the amount of fund-
ing that such State received
under this part for fiscal year
2007 was less than 70 percent of
the amount of funding that such
State received under such part
for fiscal year 2006.”.

SEC. 8. TREATMENT OF UNOBLIGATED FUNDS.

(a) ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—
Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

(1) in section 2603(b)(1)(H) (42 U.S.C. 300ff–
13(b)(1)(H)), by striking “2 percent” and inserting
“5 percent”; and

1 (2) in section 2620(a)(2) (42 U.S.C. 300ff–
2 29a(a)(2)), by striking “2 percent” and inserting “5
3 percent”.

4 (b) CORRESPONDING REDUCTION IN FUTURE
5 GRANT.—

6 (1) IN GENERAL.—Title XXVI (42 U.S.C.
7 300ff–11 et seq.) is amended—

8 (A) in section 2603(c)(3)(D)(i) (42 U.S.C.
9 300ff–13(c)(3)(D)(i)), in the matter following
10 subclause (II), by striking “2 percent” and in-
11 serting “5 percent”; and

12 (B) in section 2622(c)(4)(A) (42 U.S.C.
13 300ff–31a(c)(4)(A)), in the matter following
14 clause (ii), by striking “2 percent” and insert-
15 ing “5 percent”.

16 (2) AUTHORITY REGARDING ADMINISTRATION
17 OF PROVISION.—Title XXVI (42 U.S.C. 300ff–11 et
18 seq.) is amended—

19 (A) in section 2603(c) (42 U.S.C. 300ff–
20 13(c)), by adding at the end the following:

21 “(4) AUTHORITY REGARDING ADMINISTRATION
22 OF PROVISIONS.—In administering paragraphs (2)
23 and (3) with respect to the unobligated balance of
24 an eligible area, the Secretary may elect to reduce
25 the amount of future grants to the area under sub-

1 section (a) or (b), as applicable, by the amount of
 2 any such unobligated balance in lieu of cancelling
 3 such amount as provided for in paragraph (2) or
 4 (3)(A). In such case, the Secretary may permit the
 5 area to use such unobligated balance for purposes of
 6 any such future grant. An amount equal to such re-
 7 duction shall be available for use as additional
 8 amounts for grants pursuant to subsection (b), sub-
 9 ject to subsection (a)(4) and section 2610(d)(2).
 10 Nothing in this paragraph shall be construed to af-
 11 fect the authority of the Secretary under paragraphs
 12 (2) and (3), including the authority to grant waivers
 13 under paragraph (3)(A). The reduction in future
 14 grants authorized under this paragraph shall be not-
 15 withstanding the penalty required under paragraph
 16 (3)(D) with respect to unobligated funds.”;

17 (B) in section 2622 (42 U.S.C. 300ff-
 18 31a), by adding at the end the following:

19 “(e) AUTHORITY REGARDING ADMINISTRATION OF
 20 PROVISIONS.—In administering subsections (b) and (c)
 21 with respect to the unobligated balance of a State, the Sec-
 22 retary may elect to reduce the amount of future grants
 23 to the State under section 2618, 2620, or 2621, as appli-
 24 cable, by the amount of any such unobligated balance in
 25 lieu of cancelling such amount as provided for in sub-

1 section (b) or (c)(1). In such case, the Secretary may per-
 2 mit the State to use such unobligated balance for purposes
 3 of any such future grant. An amount equal to such reduc-
 4 tion shall be available for use as additional amounts for
 5 grants pursuant to section 2620, subject to section
 6 2618(a)(2)(H). Nothing in this paragraph shall be con-
 7 strued to affect the authority of the Secretary under sub-
 8 sections (b) and (c), including the authority to grant waiv-
 9 ers under subsection (c)(1). The reduction in future
 10 grants authorized under this subsection shall be notwith-
 11 standing the penalty required under subsection (c)(4) with
 12 respect to unobligated funds.”;

13 (C) in section 2603(b)(1)(H) (42 U.S.C.
 14 300ff-13(b)(1)(H)), by striking “canceled” and
 15 inserting “canceled, offset under subsection
 16 (c)(4),”; and

17 (D) in section 2620(a)(2) (42 U.S.C.
 18 300ff-29a(a)(2)), by striking “canceled” and
 19 inserting “canceled, offset under section
 20 2622(e),”.

21 (c) CONSIDERATION OF WAIVER AMOUNTS IN DE-
 22 TERMINING UNOBLIGATED BALANCES.—

23 (1) PART A GRANTS.—Section
 24 2603(c)(3)(D)(i)(I) (42 U.S.C. 300ff-
 25 14(c)(3)(D)(i)(I)) is amended by inserting after “un-

1 obligated balance” the following: “(less any amount
 2 of such balance that is the subject of a waiver of
 3 cancellation under subparagraph (A))”.

4 (2) PART B GRANTS.—Section 2622(c)(4)(A)(i)
 5 (42 U.S.C. 300ff—31a(c)(4)(A)(i)) is amended by
 6 inserting after “unobligated balance” the following:
 7 “(less any amount of such balance that is the sub-
 8 ject of a waiver of cancellation under paragraph
 9 (1))”.

10 **SEC. 9. APPLICATIONS BY STATES.**

11 Section 2617(b) (42 U.S.C. Section 300ff–27(b)) is
 12 amended—

13 (1) in paragraph (6), by striking “and” at the
 14 end;

15 (2) in paragraph (7), by striking the period at
 16 the end and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(8) a comprehensive plan—

19 “(A) containing an identification of indi-
 20 viduals with HIV/AIDS as described in clauses
 21 (i) through (iii) of section 2603(b)(2)(A) and
 22 the strategy required under section
 23 2602(b)(4)(D)(iv);

1 “(B) describing the estimated number of
 2 individuals within the State with HIV/AIDS
 3 who do not know their status;

4 “(C) describing activities undertaken by
 5 the State to find the individuals described in
 6 subparagraph (A) and to make such individuals
 7 aware of their status;

8 “(D) describing the manner in which the
 9 State will provide undiagnosed individuals who
 10 are made aware of their status with access to
 11 medical treatment for their HIV/AIDS; and

12 “(E) describing efforts to remove legal bar-
 13 riers, including State laws and regulations, to
 14 routine testing.”.

15 **SEC. 10. ADAP REBATE FUNDS.**

16 (a) USE OF UNOBLIGATED FUNDS.—Section 2622(d)
 17 (42 U.S.C. 300ff–31a(d)) is amended by adding at the
 18 end the following: “If an expenditure of ADAP rebate
 19 funds would trigger a penalty under this section or a high-
 20 er penalty than would otherwise have applied, the State
 21 may request that for purposes of this section, the Sec-
 22 retary deem the State’s unobligated balance to be reduced
 23 by the amount of rebate funds in the proposed expendi-
 24 ture. Notwithstanding 2618(a)(2)(F), any unobligated
 25 amount under section 2618(a)(2)(F)(ii)(V) that is re-

1 turned to the Secretary for reallocation shall be used by
2 the Secretary for—

3 “(1) the ADAP supplemental program if the
4 Secretary determines appropriate; or

5 “(2) for additional amounts for grants pursuant
6 to section 2620.”.

7 (b) TECHNICAL CORRECTION.—Subclause (V) of sec-
8 tion 2618(a)(2)(F)(ii) (42 U.S.C. 300ff–28(a)(2)(F)(ii))
9 is amended by striking “, subject to subclause (VI)”.

10 **SEC. 11. APPLICATION TO PRIMARY CARE SERVICES.**

11 (a) IN GENERAL.—Section 2671 (42 U.S.C. 300ff–
12 71), as amended, is amended—

13 (1) by redesignating subsection (i) as subsection
14 (j);

15 (2) in subsection (g), by striking “subsection
16 (i)” and inserting “subsection (j)”; and

17 (3) by inserting after subsection (h) the fol-
18 lowing:

19 “(i) APPLICATION TO PRIMARY CARE SERVICES.—
20 Nothing in this part shall be construed as requiring funds
21 under this part to be used for primary care services when
22 payments are available for such services from other
23 sources (including under titles XVIII, XIX, and XXI of
24 the Social Security Act).”.

1 (b) PROVISION OF CARE THROUGH MEMORANDUM
 2 OF UNDERSTANDING.—Section 2671(a) (42 U.S.C.
 3 300ff–71(a)) is amended by striking “(directly or through
 4 contracts)” and inserting “(directly or through contracts
 5 or memoranda of understanding)”.

6 **SEC. 12. NATIONAL HIV/AIDS TESTING GOAL.**

7 Part E of title XXVI (42 U.S.C. 300ff–81 et seq.)
 8 is amended—

9 (1) by redesignating section 2688 as section
 10 2689; and

11 (2) by inserting after section 2687 the fol-
 12 lowing:

13 **“SEC. 2688. NATIONAL HIV/AIDS TESTING GOAL.**

14 “(a) IN GENERAL.—Not later than January 1, 2010,
 15 the Secretary shall establish a national HIV/AIDS testing
 16 goal of 5,000,000 tests for HIV/AIDS annually through
 17 federally-supported HIV/AIDS prevention, treatment, and
 18 care programs, including programs under this title and
 19 other programs administered by the Centers for Disease
 20 Control and Prevention.

21 “(b) ANNUAL REPORT.—Not later than January 1,
 22 2011, and annually thereafter, the Secretary, acting
 23 through the Director of the Centers for Disease Control
 24 and Prevention, shall submit to Congress a report describ-

1 ing, with regard to the preceding 12-month reporting pe-
2 riod—

3 “(1) whether the testing goal described in sub-
4 section (a) has been met;

5 “(2) the total number of individuals tested
6 through federally-supported and other HIV/AIDS
7 prevention, treatment, and care programs in each
8 State;

9 “(3) the number of individuals who—

10 “(A) prior to such 12-month period, were
11 unaware of their HIV status; and

12 “(B) through federally-supported and
13 other HIV/AIDS prevention, treatment, and
14 care programs, were diagnosed and referred
15 into treatment and care during such period;

16 “(4) any barriers, including State laws and reg-
17 ulations, that the Secretary determines to be a bar-
18 rier to meeting the testing goal described in sub-
19 section (a);

20 “(5) the amount of funding the Secretary deter-
21 mines necessary to meet the annual testing goal in
22 the following 12 months and the amount of Federal
23 funding expended to meet the testing goal in the
24 prior 12-month period; and

1 “(6) the most cost-effective strategies for iden-
2 tifying and diagnosing individuals who were unaware
3 of their HIV status, including voluntary testing with
4 pre-test counseling, routine screening including opt-
5 out testing, partner counseling and referral services,
6 and mass media campaigns.

7 “(c) REVIEW OF PROGRAM EFFECTIVENESS.—Not
8 later than 1 year after the date of enactment of this sec-
9 tion, the Secretary, in consultation with the Director of
10 the Centers for Disease Control and Prevention, shall sub-
11 mit a report to Congress based on a comprehensive review
12 of each of the programs and activities conducted by the
13 Centers for Disease Control and Prevention as part of the
14 Domestic HIV/AIDS Prevention Activities, including the
15 following:

16 “(1) The amount of funding provided for each
17 program or activity.

18 “(2) The primary purpose of each program or
19 activity.

20 “(3) The annual goals for each program or ac-
21 tivity.

22 “(4) The relative effectiveness of each program
23 or activity with relation to the other programs and
24 activities conducted by the Centers for Disease Con-
25 trol and Prevention, based on the—

1 “(A) number of previously undiagnosed in-
 2 dividuals with HIV/AIDS made aware of their
 3 status and referred into the appropriate treat-
 4 ment;

5 “(B) amount of funding provided for each
 6 program or activity compared to the number of
 7 undiagnosed individuals with HIV/AIDS made
 8 aware of their status;

9 “(C) program’s contribution to the Na-
 10 tional HIV/AIDS testing goal; and

11 “(D) progress made toward the goals de-
 12 scribed in paragraph (3).

13 “(5) Recommendations if any to Congress on
 14 ways to allocate funding for domestic HIV/AIDS
 15 prevention activities and programs in order to
 16 achieve the National HIV/AIDS testing goal.

17 “(d) COORDINATION WITH OTHER FEDERAL ACTIVI-
 18 TIES.—In pursuing the National HIV/AIDS testing goal,
 19 the Secretary, where appropriate, shall consider and co-
 20 ordinate with other national strategies conducted by the
 21 Federal Government to address HIV/AIDS.”.

22 **SEC. 13. NOTIFICATION OF POSSIBLE EXPOSURE TO INFEC-**
 23 **TIOUS DISEASES.**

24 Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended
 25 by adding at the end the following:

1 **“PART G—NOTIFICATION OF POSSIBLE**
 2 **EXPOSURE TO INFECTIOUS DISEASES**
 3 **“SEC. 2695. INFECTIOUS DISEASES AND CIRCUMSTANCES**
 4 **RELEVANT TO NOTIFICATION REQUIRE-**
 5 **MENTS.**

6 “(a) IN GENERAL.—Not later than 180 days after
 7 the date of the enactment of this part, the Secretary shall
 8 complete the development of—

9 “(1) a list of potentially life-threatening infec-
 10 tious diseases, including emerging infectious dis-
 11 eases, to which emergency response employees may
 12 be exposed in responding to emergencies;

13 “(2) guidelines describing the circumstances in
 14 which such employees may be exposed to such dis-
 15 eases, taking into account the conditions under
 16 which emergency response is provided; and

17 “(3) guidelines describing the manner in which
 18 medical facilities should make determinations for
 19 purposes of section 2695B(d).

20 “(b) SPECIFICATION OF AIRBORNE INFECTIOUS DIS-
 21 EASES.—The list developed by the Secretary under sub-
 22 section (a)(1) shall include a specification of those infec-
 23 tious diseases on the list that are routinely transmitted
 24 through airborne or aerosolized means.

25 “(c) DISSEMINATION.—The Secretary shall—

1 “(1) transmit to State public health officers
 2 copies of the list and guidelines developed by the
 3 Secretary under subsection (a) with the request that
 4 the officers disseminate such copies as appropriate
 5 throughout the States; and

6 “(2) make such copies available to the public.

7 **“SEC. 2695A. ROUTINE NOTIFICATIONS WITH RESPECT TO**
 8 **AIRBORNE INFECTIOUS DISEASES IN VIC-**
 9 **TIMS ASSISTED.**

10 “(a) ROUTINE NOTIFICATION OF DESIGNATED OFFI-
 11 CER.—

12 “(1) DETERMINATION BY TREATING FACIL-
 13 ITY.—If a victim of an emergency is transported by
 14 emergency response employees to a medical facility
 15 and the medical facility makes a determination that
 16 the victim has an airborne infectious disease, the
 17 medical facility shall notify the designated officer of
 18 the emergency response employees who transported
 19 the victim to the medical facility of the determina-
 20 tion.

21 “(2) DETERMINATION BY FACILITY
 22 ASCERTAINING CAUSE OF DEATH.—If a victim of an
 23 emergency is transported by emergency response em-
 24 ployees to a medical facility and the victim dies at
 25 or before reaching the medical facility, the medical

1 facility ascertaining the cause of death shall notify
2 the designated officer of the emergency response em-
3 ployees who transported the victim to the initial
4 medical facility of any determination by the medical
5 facility that the victim had an airborne infectious
6 disease.

7 “(b) REQUIREMENT OF PROMPT NOTIFICATION.—
8 With respect to a determination described in paragraph
9 (1) or (2) of subsection (a), the notification required in
10 each of such paragraphs shall be made as soon as is prac-
11 ticable, but not later than 48 hours after the determina-
12 tion is made.

13 **“SEC. 2695B. REQUEST FOR NOTIFICATION WITH RESPECT**
14 **TO VICTIMS ASSISTED.**

15 “(a) INITIATION OF PROCESS BY EMPLOYEE.—If an
16 emergency response employee believes that the employee
17 may have been exposed to an infectious disease by a victim
18 of an emergency who was transported to a medical facility
19 as a result of the emergency, and if the employee attended,
20 treated, assisted, or transported the victim pursuant to the
21 emergency, then the designated officer of the employee
22 shall, upon the request of the employee, carry out the du-
23 ties described in subsection (b) regarding a determination
24 of whether the employee may have been exposed to an in-
25 fectionous disease by the victim.

1 “(b) INITIAL DETERMINATION BY DESIGNATED OF-
 2 FICER.—The duties referred to in subsection (a) are
 3 that—

4 “(1) the designated officer involved collect the
 5 facts relating to the circumstances under which, for
 6 purposes of subsection (a), the employee involved
 7 may have been exposed to an infectious disease; and

8 “(2) the designated officer evaluate such facts
 9 and make a determination of whether, if the victim
 10 involved had any infectious disease included on the
 11 list issued under paragraph (1) of section 2695(a),
 12 the employee would have been exposed to the disease
 13 under such facts, as indicated by the guidelines
 14 issued under paragraph (2) of such section.

15 “(c) SUBMISSION OF REQUEST TO MEDICAL FACIL-
 16 ITY.—

17 “(1) IN GENERAL.—If a designated officer
 18 makes a determination under subsection (b)(2) that
 19 an emergency response employee may have been ex-
 20 posed to an infectious disease, the designated officer
 21 shall submit to the medical facility to which the vic-
 22 tim involved was transported a request for a re-
 23 sponse under subsection (d) regarding the victim of
 24 the emergency involved.

1 “(2) FORM OF REQUEST.—A request under
2 paragraph (1) shall be in writing and be signed by
3 the designated officer involved, and shall contain a
4 statement of the facts collected pursuant to sub-
5 section (b)(1).

6 “(d) EVALUATION AND RESPONSE REGARDING RE-
7 QUEST TO MEDICAL FACILITY.—

8 “(1) IN GENERAL.—If a medical facility re-
9 ceives a request under subsection (c), the medical fa-
10 cility shall evaluate the facts submitted in the re-
11 quest and make a determination of whether, on the
12 basis of the medical information possessed by the fa-
13 cility regarding the victim involved, the emergency
14 response employee was exposed to an infectious dis-
15 ease included on the list issued under paragraph (1)
16 of section 2695(a), as indicated by the guidelines
17 issued under paragraph (2) of such section.

18 “(2) NOTIFICATION OF EXPOSURE.—If a med-
19 ical facility makes a determination under paragraph
20 (1) that the emergency response employee involved
21 has been exposed to an infectious disease, the med-
22 ical facility shall, in writing, notify the designated
23 officer who submitted the request under subsection
24 (c) of the determination.

1 “(3) FINDING OF NO EXPOSURE.—If a medical
2 facility makes a determination under paragraph (1)
3 that the emergency response employee involved has
4 not been exposed to an infectious disease, the med-
5 ical facility shall, in writing, inform the designated
6 officer who submitted the request under subsection
7 (c) of the determination.

8 “(4) INSUFFICIENT INFORMATION.—

9 “(A) If a medical facility finds in evalu-
10 ating facts for purposes of paragraph (1) that
11 the facts are insufficient to make the deter-
12 mination described in such paragraph, the med-
13 ical facility shall, in writing, inform the des-
14 ignated officer who submitted the request under
15 subsection (c) of the insufficiency of the facts.

16 “(B)(i) If a medical facility finds in mak-
17 ing a determination under paragraph (1) that
18 the facility possesses no information on whether
19 the victim involved has an infectious disease in-
20 cluded on the list under section 2695(a), the
21 medical facility shall, in writing, inform the des-
22 ignated officer who submitted the request under
23 subsection (c) of the insufficiency of such med-
24 ical information.

1 “(ii) If after making a response under
2 clause (i) a medical facility determines that the
3 victim involved has an infectious disease, the
4 medical facility shall make the determination
5 described in paragraph (1) and provide the ap-
6 plicable response specified in this subsection.

7 “(e) TIME FOR MAKING RESPONSE.—After receiving
8 a request under subsection (c) (including any such request
9 resubmitted under subsection (g)(2)), a medical facility
10 shall make the applicable response specified in subsection
11 (d) as soon as is practicable, but not later than 48 hours
12 after receiving the request.

13 “(f) DEATH OF VICTIM OF EMERGENCY.—

14 “(1) FACILITY ASCERTAINING CAUSE OF
15 DEATH.—If a victim described in subsection (a) dies
16 at or before reaching the medical facility involved,
17 and the medical facility receives a request under
18 subsection (c), the medical facility shall provide a
19 copy of the request to the medical facility
20 ascertaining the cause of death of the victim, if such
21 facility is a different medical facility than the facility
22 that received the original request.

23 “(2) RESPONSIBILITY OF FACILITY.—Upon the
24 receipt of a copy of a request for purposes of para-
25 graph (1), the duties otherwise established in this

1 part regarding medical facilities shall apply to the
 2 medical facility ascertaining the cause of death of
 3 the victim in the same manner and to the same ex-
 4 tent as such duties apply to the medical facility
 5 originally receiving the request.

6 “(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

7 “(1) EVALUATION OF RESPONSE OF MEDICAL
 8 FACILITY REGARDING INSUFFICIENT FACTS.—

9 “(A) In the case of a request under sub-
 10 section (c) to which a medical facility has made
 11 the response specified in subsection (d)(4)(A)
 12 regarding the insufficiency of facts, the public
 13 health officer for the community in which the
 14 medical facility is located shall evaluate the re-
 15 quest and the response, if the designated officer
 16 involved submits such documents to the officer
 17 with the request that the officer make such an
 18 evaluation.

19 “(B) As soon as is practicable after a pub-
 20 lic health officer receives a request under sub-
 21 paragraph (A), but not later than 48 hours
 22 after receipt of the request, the public health
 23 officer shall complete the evaluation required in
 24 such paragraph and inform the designated offi-
 25 cer of the results of the evaluation.

1 “(2) FINDINGS OF EVALUATION.—

2 “(A) If an evaluation under paragraph
3 (1)(A) indicates that the facts provided to the
4 medical facility pursuant to subsection (c) were
5 sufficient for purposes of determinations under
6 subsection (d)(1)—

7 “(i) the public health officer shall, on
8 behalf of the designated officer involved,
9 resubmit the request to the medical facil-
10 ity; and

11 “(ii) the medical facility shall provide
12 to the designated officer the applicable re-
13 sponse specified in subsection (d).

14 “(B) If an evaluation under paragraph
15 (1)(A) indicates that the facts provided in the
16 request to the medical facility were insufficient
17 for purposes of determinations specified in sub-
18 section (c)—

19 “(i) the public health officer shall pro-
20 vide advice to the designated officer re-
21 garding the collection and description of
22 appropriate facts; and

23 “(ii) if sufficient facts are obtained by
24 the designated officer—

1 “(I) the public health officer
 2 shall, on behalf of the designated offi-
 3 cer involved, resubmit the request to
 4 the medical facility; and

5 “(II) the medical facility shall
 6 provide to the designated officer the
 7 appropriate response under subsection
 8 (c).

9 **“SEC. 2695C. PROCEDURES FOR NOTIFICATION OF EXPO-**
 10 **SURE.**

11 “(a) CONTENTS OF NOTIFICATION TO OFFICER.—In
 12 making a notification required under section 2695A or
 13 section 2695B(d)(2), a medical facility shall provide—

14 “(1) the name of the infectious disease involved;
 15 and

16 “(2) the date on which the victim of the emer-
 17 gency involved was transported by emergency re-
 18 sponse employees to the medical facility involved.

19 “(b) MANNER OF NOTIFICATION.—If a notification
 20 under section 2695A or section 2695B(d)(2) is mailed or
 21 otherwise indirectly made—

22 “(1) the medical facility sending the notification
 23 shall, upon sending the notification, inform the des-
 24 ignated officer to whom the notification is sent of
 25 the fact that the notification has been sent; and

1 “(2) such designated officer shall, not later
2 than 10 days after being informed by the medical fa-
3 cility that the notification has been sent, inform
4 such medical facility whether the designated officer
5 has received the notification.

6 **“SEC. 2695D. NOTIFICATION OF EMPLOYEE.**

7 “(a) IN GENERAL.—After receiving a notification for
8 purposes of section 2695A or 2695B(d)(2), a designated
9 officer of emergency response employees shall, to the ex-
10 tent practicable, immediately notify each of such employ-
11 ees who—

12 “(1) responded to the emergency involved; and

13 “(2) as indicated by guidelines developed by the
14 Secretary, may have been exposed to an infectious
15 disease.

16 “(b) CERTAIN CONTENTS OF NOTIFICATION TO EM-
17 PLOYEE.—A notification under this subsection to an emer-
18 gency response employee shall inform the employee of—

19 “(1) the fact that the employee may have been
20 exposed to an infectious disease and the name of the
21 disease involved;

22 “(2) any action by the employee that, as indi-
23 cated by guidelines developed by the Secretary, is
24 medically appropriate; and

1 “(3) if medically appropriate under such cri-
2 teria, the date of such emergency.

3 “(c) RESPONSES OTHER THAN NOTIFICATION OF
4 EXPOSURE.—After receiving a response under paragraph
5 (3) or (4) of subsection (d) of section 2695B, or a re-
6 sponse under subsection (g)(1) of such section, the des-
7 ignated officer for the employee shall, to the extent prac-
8 ticable, immediately inform the employee of the response.

9 **“SEC. 2695E. SELECTION OF DESIGNATED OFFICERS.**

10 “(a) IN GENERAL.—For the purposes of receiving no-
11 tifications and responses and making requests under this
12 part on behalf of emergency response employees, the pub-
13 lic health officer of each State shall designate 1 official
14 or officer of each employer of emergency response employ-
15 ees in the State.

16 “(b) PREFERENCE IN MAKING DESIGNATIONS.—In
17 making the designations required in subsection (a), a pub-
18 lic health officer shall give preference to individuals who
19 are trained in the provision of health care or in the control
20 of infectious diseases.

21 **“SEC. 2695F. LIMITATION WITH RESPECT TO DUTIES OF**
22 **MEDICAL FACILITIES.**

23 “The duties established in this part for a medical fa-
24 cility—

1 “(1) shall apply only to medical information
 2 possessed by the facility during the period in which
 3 the facility is treating the victim for conditions aris-
 4 ing from the emergency, or during the 60-day period
 5 beginning on the date on which the victim is trans-
 6 ported by emergency response employees to the facil-
 7 ity, whichever period expires first; and

8 “(2) shall not apply to any extent after the ex-
 9 piration of the 30-day period beginning on the expi-
 10 ration of the applicable period referred to in para-
 11 graph (1), except that such duties shall apply with
 12 respect to any request under section 2695B(c) re-
 13 ceived by a medical facility before the expiration of
 14 such 30-day period.

15 **“SEC. 2695G. MISCELLANEOUS PROVISIONS.**

16 “(a) LIABILITY OF MEDICAL FACILITIES, DES-
 17 IGNATED OFFICERS, PUBLIC HEALTH OFFICERS, AND
 18 GOVERNING ENTITIES.—This part may not be construed
 19 to authorize any cause of action for damages or any civil
 20 penalty against any medical facility, any designated offi-
 21 cer, any other public health officer, or any governing enti-
 22 ty of such facility or officer for failure to comply with the
 23 duties established in this part.

24 “(b) TESTING.—This part may not, with respect to
 25 victims of emergencies, be construed to authorize or re-

1 quire a medical facility to test any such victim for any
2 infectious disease.

3 “(c) CONFIDENTIALITY.—This part may not be con-
4 strued to authorize or require any medical facility, any
5 designated officer of emergency response employees, or
6 any such employee, to disclose identifying information
7 with respect to a victim of an emergency or with respect
8 to an emergency response employee.

9 “(d) FAILURE TO PROVIDE EMERGENCY SERV-
10 ICES.—This part may not be construed to authorize any
11 emergency response employee to fail to respond, or to deny
12 services, to any victim of an emergency.

13 “(e) NOTIFICATION AND REPORTING DEADLINES.—
14 In any case in which the Secretary determines that, wholly
15 or partially as a result of a public health emergency that
16 has been determined pursuant to section 319(a), individ-
17 uals or public or private entities are unable to comply with
18 the requirements of this part, the Secretary may, notwith-
19 standing any other provision of law, temporarily suspend,
20 in whole or in part, the requirements of this part as the
21 circumstances reasonably require. Before or promptly
22 after such a suspension, the Secretary shall notify the
23 Congress of such action and publish in the Federal Reg-
24 ister a notice of the suspension.

1 “(f) CONTINUED APPLICATION OF STATE AND
2 LOCAL LAW.—Nothing in this part shall be construed to
3 limit the application of State or local laws that require
4 the provision of data to public health authorities.

5 **“SEC. 2695H. INJUNCTIONS REGARDING VIOLATION OF**
6 **PROHIBITION.**

7 “(a) IN GENERAL.—The Secretary may, in any court
8 of competent jurisdiction, commence a civil action for the
9 purpose of obtaining temporary or permanent injunctive
10 relief with respect to any violation of this part.

11 “(b) FACILITATION OF INFORMATION ON VIOLA-
12 TIONS.—The Secretary shall establish an administrative
13 process for encouraging emergency response employees to
14 provide information to the Secretary regarding violations
15 of this part. As appropriate, the Secretary shall investigate
16 alleged such violations and seek appropriate injunctive re-
17 lief.

18 **“SEC. 2695I. APPLICABILITY OF PART.**

19 “‘This part shall not apply in a State if the chief exec-
20 utive officer of the State certifies to the Secretary that

1 the law of the State is substantially consistent with this
2 part.”.

Passed the Senate October 19, 2009.

Attest:

Secretary.

11TH CONGRESS
1ST SESSION

S. 1793

AN ACT

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.